

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Midwest Operating Engineers Welfare Fund;)	
Midwest Operating Engineers Pension Trust Fund;)	
Operating Engineers Local 150 Apprenticeship)	
Fund; Midwest Operating Engineers Retirement)	
Enhancement Fund; Local 150 IUOE Vacation)	
Savings Plan; and Construction Industry Research)	
and Service Trust Fund;)	Case No. 19-cv-01911
)	
Plaintiffs,)	Judge: Robert M. Dow, Jr.
)	
v.)	Magistrate Judge: Susan E. Cox
)	
RB Services & Hauling, LLC,)	
)	
Defendant.)	

MOTION FOR ENTRY OF JUDGMENT

Plaintiffs Midwest Operating Engineers Welfare Fund; Midwest Operating Engineers Pension Trust Fund; Operating Engineers Local 150 Apprenticeship Fund; Midwest Operating Engineers Retirement Enhancement Fund; Local 150 IUOE Vacation Savings Plan (collectively, “the Funds”); and the Construction Industry Research and Service Trust Fund (“CRF”), move to enter judgment against Defendant RB Services & Hauling, LLC (“RB”), for unpaid regular operator contributions owed, interest, liquidated damages, costs, and attorneys’ fees under Section 515 of the Employee Retirement Income Security Act (ERISA) of 1974, 29 U.S.C. § 1145. In support of this Motion, Plaintiffs state as follows:

1. On March 20, 2019, Plaintiffs filed suit against RB to compel an audit of its accounting records for unpaid contributions, interest, liquidated damages, and attorneys’ fees and costs owed under a collective bargaining agreement with the International Union of Operating Engineers, Local 150, AFL-CIO. Employers such as RB are required to report to the Funds the hours worked by its bargaining unit employees on a monthly basis.

2. In December 2018, and confirmed on August 25, 2021, the Funds received the results of an random audit conducted for the period of January 1, 2017 to December 31, 2017. The audit calculated unpaid regular operator contributions owed for the 2017 timeframe to be \$77,539.41.

3. Pursuant to Section 502(g) of ERISA, the Funds are entitled to recover interest on those unpaid regular operator contributions. 29 U.S.C. § 1132(g)(2)(B). The Funds have calculated interest based upon an annual rate of 12 percent to be \$47,787.23 (Exhibit A, Certification of Thomas M. Bernstein (“Bernstein Cert.”) ¶ 4).

4. Pursuant to Section 502(g) of ERISA, the Funds and are entitled to liquidated damages not to exceed 20 percent. 29 U.S.C. § 1132(g)(1). The Funds and have incurred liquidated damages in this action in the total amount of \$15,507.88 (Ex. A, Bernstein Cert. ¶ 4). Further, the Funds have incurred \$3,248.22 for the cost of the audit (Ex. A, Attachment 1).

5. On April 27, 2020, this Court granted Plaintiffs’ Motion for Entry of Default and Judgment pursuant to its random audit lawsuit and awarded attorneys’ fees and costs in the amount of \$20,087.50 (Dkt. #37).

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment for unpaid regular operator contributions, interest, liquidated damages, attorneys’ fees and costs in the amounts set forth below:

Unpaid regular operator contributions for hours worked January 2017 – December 2017:	\$77,539.41
Interest on unpaid regular operator contributions based upon annual interest rate of 12 percent:	\$47,787.23
Liquidated damages for unpaid regular operator contributions:	\$15,507.88
Audit fee	\$3,248.22
Attorneys’ fees and costs	\$20,087.50
Total:	<u>\$164,170.24</u>

Dated: February 4, 2022

Respectfully submitted,

By: s/ Steven A. Davidson
One of the Attorneys for the Plaintiffs

Attorneys for the Funds and CRF:

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CERTIFICATE OF SERVICE

The undersigned, an attorney of record, hereby certifies that on February 4, 2022, he electronically filed the foregoing ***Motion for Entry of Judgment*** and served copies upon the following individuals via UPS Overnight Delivery and U.S. First Class Mail:

RB Services & Hauling, LLC
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One of the Attorneys for Plaintiffs

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